

E-015/GR-94-001 NOTICE AND ORDER FOR HEARING

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm  
Tom Burton  
Marshall Johnson  
Cynthia A. Kitlinski  
Dee Knaak

Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Application  
of Minnesota Power for Authority  
to Change its Schedule of Rates  
for Retail Electric Service in  
the State of Minnesota

ISSUE DATE: February 7, 1994

DOCKET NO. E-015/GR-94-001

NOTICE AND ORDER FOR HEARING

**PROCEDURAL HISTORY**

**I. The Company's Filing**

On January 3, 1994 Minnesota Power filed a petition seeking a general rate increase of \$34,348,800, or 11.78%, effective March 4, 1994. On February 7, 1994 the Commission issued an Order accepting the filing and suspending the proposed rates under Minn. Stat. § 216B.16, subd. 2 (1992).

A copy of the Company's rate increase proposal is on file in the offices of the Department of Public Service, 121 Seventh Place East, Suite 200, St. Paul, Minnesota 55101, and is open for public inspection during regular office hours.

Copies are also available for public inspection at the Company's offices at the following locations: Duluth -- 30 West Superior Street and 3215 Arrowhead Road; Aurora -- 510 West Third Avenue North; Chisholm -- 620 East Drive; Cloquet -- 1301 - 18th Street; Coleraine -- 212 Curley Avenue; Crosby -- One Fourth Street Northwest; Eveleth -- 401 Douglas Avenue; International Falls -- 523 Third Street; Little Falls -- 1201 - 11th Street; Long Prairie -- 701 Northeast 9th Street; Park Rapids -- Highway 71 South; Pine River -- County Road 2 and Main; Sandstone -- I-35 and Highway 23.

**FINDINGS AND CONCLUSIONS**

**II. Jurisdiction and Referral for Contested Case Proceedings**

The Commission has jurisdiction over proposed rate changes under Minn. Stat. § 216B.16 (1992). If the Commission is unable to resolve all significant issues regarding the reasonableness of the proposed rates on the basis of the filing itself, the

Commission is to refer the matter to the Office of Administrative Hearings for contested case proceedings. Minn. Stat. § 216B.16, subd. 2 (1992).

The Commission finds that it cannot satisfactorily resolve all questions regarding the reasonableness of the proposed rates on the basis of the Company's filing. The Commission will therefore refer the matter to the Office of Administrative Hearings for contested case proceedings.

### III. Proposed Revenue Requirement

The Company filed financial schedules indicating a revenue deficiency of \$34,348,800. Those schedules are summarized as follows:

	Last Approved	Proposed
Rate Base	\$543,202,866	\$483,657,724
Revenues	326,562,628	327,535,315
Expenses	275,775,310	300,420,702
Income with AFDC	50,787,318	27,114,613
Rate of Return	9.35%	9.77%
Income Deficiency	-0-	20,138,701
Conversion Factor	1.674201	1.705611
Revenue Deficiency	-0-	34,348,800

The Company proposed rate increases by customer class as follows:

Rate Class	Present	Proposed	% Increase
Residential	\$ 42,604,026	\$ 50,272,501	18.00%
General Service	34,648,815	40,886,796	18.00%
Large Light & Power	43,765,260	50,074,663	14.42%
Large Power	139,708,595	148,242,644	6.11%
Municipal Pumping	2,488,943	2,860,553	14.93%
Lighting	2,154,819	2,155,167	0.02%
Dual Fuel	4,090,381	5,408,204	32.22%
Large Power Interruptible	22,039,968	25,949,079	17.74%
<b>TOTAL</b>	<b>\$291,500,807</b>	<b>\$325,849,607</b>	<b>11.78%</b>

The Company has filed a proposed rate schedule to recover the revenue deficiency claimed. The Commission has suspended implementation of the proposed rate schedule by separate Order. By further Order, the Commission will direct the Company to place an interim rate schedule into effect. Interim rates are subject to refund if the Commission ultimately orders a lower overall revenue increase than is recovered through interim rates. Minn. Stat. § 216B.16, subd. 3 (1992).

#### **IV. Issues to be Addressed**

Parties shall address the following issues in the course of the contested case proceedings ordered herein:

- (1) Is the test year revenue increase sought by the Company just and reasonable or will it result in unreasonable and excessive earnings by the Company?
- (2) Is the rate design proposed by the Company just and reasonable?
- (3) Are the Company's proposed capital structure and return on equity just and reasonable?
- (4) Is the Company's proposed external funding mechanism for post-employment benefits other than pensions (PBOPs) just and reasonable?
- (5) Is the Company's proposed recovery of incentive compensation just and reasonable? Is recovery justified by demonstrated or projected effects on labor productivity?
- (6) Is the Company's proposed Conservation Cost Recovery Charge just and reasonable?

The parties may also raise and address other issues relevant to the Company's proposed rate increase.

#### **V. Further Filings Required**

The Commission believes it needs more detailed information on the last three issues listed above and will require the Company to file that information within 20 days. The Company shall file the following material:

- (1) testimony and financial data comparing its proposal for external PBOP funding with external funding methods it rejected.
- (2) testimony detailing the actual and projected effects of its incentive compensation program on labor productivity.
- (3) testimony and financial data explaining in greater detail the calculation of its proposed Conservation Cost Recovery Charge.

## **VI. Procedural Outline**

### **A. Administrative Law Judge**

The Administrative Law Judge assigned to this case is Allen E. Giles. His address and telephone number are as follows: Office of Administrative Hearings, Suite 1700, 100 Washington Square, Minneapolis, Minnesota 55401-2138; (612) 349-2543.

### **B. Hearing Procedure**

Hearings in this matter will be conducted in accordance with the Administrative Procedure Act, Minn. Stat. §§ 14.57-14.62 (1992); the rules of the Office of Administrative Hearings, Minn. Rules, parts 1400.5100 to 1400.8400; and, to the extent that they are not superseded by those rules, the Commission's Rules of Practice and Procedure, Minn. Rules, parts 7830.0100 to 7830.4400. Copies of these rules and statutes may be purchased from the Print Communications Division of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155; (612) 297-3000.

Under these rules parties may be represented by counsel, may appear on their own behalf, or may be represented by another person of their choice, unless otherwise prohibited as the unauthorized practice of law. They have the right to present evidence, conduct cross-examination, and make written and oral argument. Under Minn. Rules, part 1400.7000, they may obtain subpoenas to compel the attendance of witnesses and the production of documents.

Any party intending to appear at the hearing must file a notice of appearance, copy attached, with the Administrative Law Judge within 20 days of the date of this Notice and Order for Hearing. Failure to appear at the hearing may result in facts and issues being resolved against the party who fails to appear.

Parties should bring to the hearing all documents, records, and witnesses necessary to support their positions. They should take note that any material introduced into evidence may become public data unless a party objects and requests relief under Minn. Stat. § 14.60, subd. 2 (1992).

Any questions regarding discovery under Minn. Rules, parts 1400.6700 to 1400.6800 or informal disposition under Minn. Rules, part 1400.5900 should be directed to Margie Hendriksen, Special Assistant Attorney General, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101-2147; (612) 296-0410.

The times, dates, and places of public and evidentiary hearings will be set by order of the Administrative Law Judge after consultation with the Commission and intervening parties. Public hearings shall be held prior to evidentiary hearings if possible.

### **C. Intervention**

Persons wishing to become formal parties to this proceeding shall promptly file petitions to intervene with the Administrative Law Judge. They shall serve copies of such petitions on all current parties and on the Commission. Minn. Rules, part 1400.6200.

### **D. Prehearing Conference**

A prehearing conference will be held in this matter on Friday, February 18, 1994 at 9:30 a.m. at the offices of the Public Utilities Commission, 121 Seventh Place East, Suite 350, St. Paul, Minnesota 55101-2147.

Persons participating in the prehearing conference should be prepared to discuss time frames and scheduling. Other matters which may be discussed include the locations and dates of public hearings, discovery procedures, and similar issues.

### **E. Time Constraints**

The Commission is required to act on the Company's filing within ten months or the proposed rates are deemed approved. Minn. Stat. § 216B.16, subd. 2 (1992). This ten-month period can be extended for two months, if the parties submit a settlement which is rejected by the Commission. Minn. Stat. § 216B.16, subd. 2 (1992).

The Commission asks the Office of Administrative Hearings to conduct contested case proceedings in light of these time constraints and requests that the Administrative Law Judge submit his final report by September 2, 1994, to allow the Commission adequate opportunity for thorough consideration of the case.

### **F. Application of Ethics in Government Act**

The lobbying provisions of the Ethics in Government Act, Minn. Stat. §§ 10A.01 et seq. (1992), apply to general rate cases. Persons appearing in this proceeding may be subject to registration, reporting, and other requirements set forth in that Act. All persons appearing in this case are urged to refer to the Act and to contact the Minnesota Ethical Practices Board, telephone number (612) 296-1720, with any questions.

### **G. Ex Parte Communications**

Restrictions on ex parte communications with Commissioners and reporting requirements regarding such communications with Commission staff apply to this proceeding from the date of this Order. Those restrictions and reporting requirements are set forth at Minn. Rules, parts 7845.7300-7845.7400, which all parties are urged to consult.

## ORDER

1. A contested case proceeding shall be held on the Company's proposed rate increase. The proceeding shall begin with a Prehearing Conference on Friday, February 18, 1994 at 9:30 a.m.
2. This Order will be served on the Company, which shall mail copies of the Order to all municipalities and counties in its service area and to such other persons as the Department of Public Service may request.
3. Public hearings shall be held in this matter at locations within the service area of the Company.
4. The Company shall give the following notices of the evidentiary and public hearings:
  - a) Individual written notice to each customer, which may be in the form of a bill insert, and shall be served at least ten days before the first day of hearings.
  - b) Written notice to the governing bodies of all municipalities and counties in the area affected and to all parties in the Company's last two rate cases. These notices shall be mailed at least ten days before the first day of hearings.
  - c) Display advertisements in legal newspapers of affected counties and other newspapers of general circulation within the Company's service area. These advertisements shall appear at least ten days before the first day of hearings. They shall include the heading **RATE INCREASE NOTICE**, which heading shall appear in bold face type no smaller than 30 points.
  - d) The above notices shall contain the information required in Minn. Rules, part 7830.3200, subp. 2. The Company shall submit proposed notices to the Executive Secretary for approval prior to publication or service.
5. The Commission authorizes the Executive Secretary to enter Orders on behalf of the Commission varying time requirements for the filing of pleadings and other documents and determining the conduct of this proceeding, according to the standards set forth in Minn. Rules, part 7830.4400. Any party adversely affected by such an Order may file a motion for reconsideration, vacation, or modification, no later than ten days from the date of its entry or one day before any filing deadline or occurrence of an act directed in such

Order. Such motions will be heard by the Commission.

6. Within 20 days of the date of this Order the Company shall file the following material:

(1) testimony and financial data comparing its proposal for external PBOP funding with external funding methods it rejected.

(2) testimony detailing the actual and projected effects of its incentive compensation program on labor productivity.

(3) testimony and financial data explaining in greater detail the calculation of its proposed Conservation Cost Recovery Charge.

7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

(S E A L)



BEFORE THE MINNESOTA OFFICE OF ADMINISTRATIVE HEARINGS  
Suite 1700  
100 Washington Square  
Minneapolis, Minnesota 55401-2138

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION  
Suite 350  
121 Seventh Place East  
St. Paul, Minnesota 55101-2147

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MPUC Docket No. E-015/GR-94-  
001

OAH Docket No.

NOTICE OF APPEARANCE

Name, Address, and Telephone Number of Administrative Law Judge:

Allen E. Giles, Office of Administrative Hearings, Suite 1700,  
100 Washington Square, Minneapolis, Minnesota 55401-2138;  
(612) 349-2543.

TO THE ADMINISTRATIVE LAW JUDGE:

You are advised that the party named below will appear at the  
above hearing.

NAME OF PARTY:

ADDRESS:

TELEPHONE NUMBER:

PARTY'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PARTY OR ATTORNEY: \_\_\_\_\_

DATE: \_\_\_\_\_